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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pisutha-Armond et al.)
)
For: Message Alert System and)
Method of Providing Message)
Notification)
)
Serial No.: 09/504,135)
)
Filed: February 15, 2000)
)
Examiner: Persino, R.)
)
Art Unit: 2682)

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being
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January 30, 2006
(Date)

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Board of Patent Appeals and Interferences

TRANSMITTAL OF APPELLANTS' REPLY BRIEF

The enclosed reply brief is being filed in furtherance of the Examiner's Answer,
mailed on November 30, 2005.

In connection with filing the reply brief, no fee is believed to be due. However in
the event that the applicants are mistaken and a fee is in fact due in connection with the filing and
the consideration of the reply brief, the undersigned authorizes the Commissioner and
respectfully requests that the fee(s) be charged to deposit account 50-2117 of Motorola, Inc. The

Commissioner is further authorized to credit any overpayments to deposit account 50-2117 of Motorola, Inc.

Respectfully submitted,

BY: Lawrence J. Chapa
Lawrence J. Chapa
Reg. No. 39,135
Phone No.: (847) 523-0340
Facsimile No.: (847) 523-2350

Motorola, Inc.
Mobile Devices
Intellectual Property Department
600 North US Highway 45, AS437
Libertyville, IL 60048

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APPELLANTS' REPLY BRIEF

This reply brief is in furtherance of the Examiner's Answer, mailed on November 30, 2005, and includes the applicant's response to the Examiner's most recent arguments, focusing on what appears to have become a primary point of contention, namely, whether the attempt to apply the reference of record, Ichikawa et al., US Patent No. 4,626,842, necessitates two different size criteria, in order to make known each and every feature of the claim.

The Examiner correctly asserts that relative to either of independent claims 35 and 42, and indirectly the claims which depend there from, there is no requirement in the claims for "two different size criteria". Such a general requirement is not being argued by the applicants. Alternatively, the applicants would contend that the claims require a type criteria, which is

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separate from a size criteria, such that to the extent that the Examiner has attempted to define a type criteria as corresponding to a size criteria, the resulting effect would require two different size criteria. As to the Examiner's assertions concerning a determination as to "how the generating step is executed", and whether the same is claimed, the applicants note the Examiner's assertions are incorrect. Quite specifically, relative to claims 35 and 42 a display item is generated in accordance with the size thereof, making the manner in which the display item is generated, size dependant.

Here the Examiner is attempting to merge the same two constraints which are used in conjunction with the generation of a display item, so as to be satisfied by a single distinction. More specifically, Ishikawa et al., '842, separately handles the display of messages that are ≤ 10 digits, as opposed to messages which are 11-20 digits. However once the distinction has been made, there is no further handling in accordance with the size of the message. So, relative to Ishikawa et al., '842, either a determination of type is based upon message length being ≤ 10 digits or having a message length that is 11-20 characters, in which case the message of either of the particular types is then displayed irregardless of message length; or there is no determination of any corresponding message type, and a message is then displayed in accordance to size where messages having a message length of ≤ 10 digits is displayed one way and messages having a message length of 11-20 characters is displayed another way. In either case, the claim language of the present application, namely independent claims 35 and 42, as well as the corresponding dependent claims, has not been satisfied, to the extent that a distinction based upon message type is treated differently than a distinction in accordance with size, which precludes the two from being equated to a single distinction. Correspondingly, such an interpretation can not be said to make known each and every feature of the claims.

Relative to the new argument raised by the Examiner on page 9, second full paragraph, of the Examiner's Answer, where the Examiner alternatively attempts to equate messages received with no error, correctable error, or uncorrectable errors, as corresponding to messages of different types, the applicants would alternatively assert that such a difference is the result of the integrity of transmission (i.e. a condition of conveyance) and is not a feature, relevant as to the type of the message being conveyed, and therefore can not be appropriately equated with a type of message,

which the applicant would assert is established when the message is formulated prior to transmission. Where a message has been received in such a way that the same cannot be corrected, the applicants would question whether the message has ultimately ever been received. For example, the present application notes that "[i]n general, when a new message is transmitted to the communication device or a new event occurs, the message alert system receives the message and determines the message type from type-identifying data transmitted with the message" (page 7, lines 18-22), as opposed to artifacts that manifest as a result of erroneous reception. Correspondingly, the Examiner's newly minted argument is similarly problematic.

Consequently, in absence of a reference, which makes known or inherent each and every feature of the claims, a rejection based upon an alleged anticipation can not be supported. Consequently, the applicants would respectfully request that the Examiner's decision to finally reject the pending claims be overturned, and that the claims be permitted to proceed to allowance.

Respectfully submitted,

BY: Lawrence J. Chapa
Lawrence J. Chapa
Reg. No. 39,135
Phone No.: (847) 523-0340

Motorola, Inc.
Mobile Devices
Intellectual Property Department
600 North US Highway 45, AS437
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